

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8089 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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KATHUDIABHAI B VASAVA

Versus

STATE OF GUJARAT

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Appearance:

MR SHAILESH C PARIKH for Petitioners  
SERVED for Respondent No. 1  
MR. MAULIN RAVAL, AGP, INSTRUCTED BY MITA TANREJA,  
FOR MR HM BHAGAT for Respondent No. 3

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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE M.S.SHAH

Date of decision: 04/09/97

ORAL JUDGEMENT (PER C.K.THAKKER J.)

Various petitions were placed before us earlier and we disposed them by issuing certain directions to the authorities to decide the question of regularisation of

encroachment by the petitioners in accordance with Government Resolutions.

It appears that thereafter Special Civil Application Nos. 7373 of 1996 and 7375 of 1996 were placed before a Division Bench consisting of R.A.Mehta Act.C.J. & R.K.Abhichandani, J. on 5th May 1997. Over and above consideration of the Government Resolution dt. 5th October 1992 and other resolutions, following directions have also been issued;

"It is further submitted that after the issue of the Government Resolution dated 5th October, 1992 various non-Governmental organisations working in the field have made representations to the Government, making many suggestions for improvement and amendment. It is also submitted that the implementation of these resolutions have also created many problems and difficulties, particularly with regard to the proof of cultivation by the tribals. Two such representations by the NGOS (Eklavya and ARCH Vahini) are produced on record.

It is, therefore, directed that the respondent authorities shall consider these representations and suggestions and in consultation with this kind of voluntary organisations, take a decision on these representations. The petitioners to make fresh representation within three months and the authorities shall consider the same within 3 months thereafter and the decision taken by the Government will be communicated to the petitioners and till such time, interim relief shall continue. With these directions both these petitions are disposed of. Rule is made absolute accordingly."

We have heard the learned counsel for the petitioners as well as Mr.Raval, learned Assistant Government Pleader.

In the facts and circumstances and taking into account orders passed in various other petitions, we pass the following order;

The respondent authorities shall decide the question raised by the tribals in relation to encroachment on forest land, in accordance with Government Resolutions including resolution dt. 5th

October 1992. The parties have agreed that similar directions be given in these matters also.

It was submitted that after issuance of Government Resolution dated 5th October, 1992, various Non-Governmental Organisations (NOGs) working in the field have made representations to the Government, making many suggestions for improvement and amendment. It is also submitted that the implementation of these resolutions have also created many problems and difficulties, particularly with regard to the proof of cultivation by the tribals. Two such representations by the NGOS (Eklavya and ARCH Vahini) are produced on record.

It is, therefore, directed that the respondent authorities shall consider these representations and suggestions and in consultation with this kind of voluntary organisations, take a decision on these representations. The petitioners to make fresh representation on or before 31st December 1997.

The petition is accordingly disposed of. Rule made absolute to the above extent with no order as to costs.

Dt. 4.9.1997. (C.K.THAKKER J.)

(M.S.SHAH J.)